

Attorney Docket No. H 4222 PCT/US
Serial No. 10/018,922
Art Unit: 1615
Applicants' Reply to the Office Action of December 16, 2004

REMARKS

Amendment To The Claims

Pending claims 24, 26 and 27 are amended in the above Listing of Claims. The amendment of the claims adds no new matter. Entry of these amendments and continued examination of the application based on the foregoing Listing of Claims is respectfully requested.

Rejections Under 35 USC 112, Paragraph 2

Claim 24 is rejected because the "an anionic polymer selected from the group consisting of a salt of alginic acid and an anionic chitosan derivative and active principle" is confusing. The examiner suggested inserting a comma between "derivative" and "and", which applicants have done by the foregoing amendment to claim 24. Applicants thank the examiner for her suggestion and respectfully request withdrawal of this rejection.

Claim 26, which was originally dependent on claim 24, is rejected due to a lack of antecedent for the word "heteropolysaccharide" in claim 24. By the above amendment of claim 26, applicants have changed its dependency to claim 25 which does have a proper antecedent. Applicants therefore respectfully request withdrawal of this rejection, under 35 USC 112, paragraph 2, of claim 26.

Claim 27, which was originally dependent on claim 24, is rejected due to a lack of antecedent for the word "protein" in claim 24. By the above amendment of claim 27, applicants have changed its dependency to claim 25 which does have a proper antecedent. Applicants therefore respectfully request withdrawal of this rejection, under 35 USC 112, paragraph 2, of claim 27.

Rejections For Double Patenting of the Obviousness-Type - Terminal Disclaimer

In the subject Office Action, pending claims 23-37 are rejected for double patenting of the obviousness-type over claims 1-16 of commonly owned United States Patents: No. 6,818,296

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('296). Additionally, claims 23-38 are rejected for double patenting of the obviousness-type over claims 1-13 of commonly owned United States Patent No. 6,733,790 ('790), in view of Morrison et al., US 5,827,531 ('531).

While not necessarily agreeing with the Examiner that the instant claims are obvious in view of the claims of each of the five commonly assigned US patents, in an effort to expedite prosecution, Applicants are submitting herewith a Terminal Disclaimer, with respect to both commonly owned prior patents. Applicants respectfully submit that the accompanying Terminal Disclaimer is sufficient to overcome the Examiner's rejections under the judicially created doctrine of obviousness-type double patenting, and withdrawal of these rejections is therefore respectfully solicited.

There are no further rejections in the subject Office Action. It is believed that the foregoing amendment to the specification and reply are completely responsive under 35 CFR 1.111 and that all grounds of rejection are completely avoided and/or overcome. Applicants therefore respectfully request that a timely Notice of Allowance be issued in this application.

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The Examiner is requested to telephone the undersigned attorney if any further questions remain which can be resolved by a telephone interview.

Respectfully submitted,
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5/13/05
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Enclosure: Terminal Disclaimer To Obviate A Double Patenting Rejection Over "Prior" Patents